

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DAVID J. BUCHANAN,	§
	§ No. 614, 2008
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Sussex County
STATE OF DELAWARE,	§ Cr. ID No. 0803017116
	§
Plaintiff Below-	§
Appellee.	§

Submitted: December 30, 2008

Decided: January 13, 2009

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

**ORDER**

This 13<sup>th</sup> day of January 2009, it appears to the Court that:

(1) On December 18, 2008, the Court received the appellant's notice of appeal from the Superior Court's orders dated March 14, 2008, regarding the installation of a mobile tracking device on the appellant's vehicle. The State requested that the device be installed in connection with a confidential investigation of criminal activities by the appellant on property previously owned by him and his former wife.

(2) On December 19, 2008, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why the appeal should not be dismissed as untimely filed. The appellant filed his

response to the notice to show cause on December 30, 2008. The appellant states that he was never notified of the orders and argues that they violate his constitutional rights.

(3) Pursuant to Rule 6, a notice of appeal must be filed within 30 days after entry upon the docket of the judgment or order being appealed. The orders being appealed in this case, which relate to a confidential criminal investigation, were ordered by the Superior Court to be sealed and do not appear on the Superior Court docket. As such, the appellant's notice of appeal is not untimely under Rule 6. However, the Court lacks jurisdiction over the appeal because the orders appealed from are interlocutory.<sup>1</sup> Moreover, the appeal is in violation of this Court's Order dated September 2, 2008, which enjoined the appellant from any further filings in connection with the Family Court's orders relating to his divorce and the subsequent property division.<sup>2</sup>

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that this appeal is DISMISSED.

BY THE COURT:

/s/ Jack B. Jacobs  
Justice

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<sup>1</sup> Del. Const. art. IV, § 11(1) (b); *State v. Cooley*, 430 A.2d 789 (1981).

<sup>2</sup> *In re Buchanan*, Del. Supr., No. 368, 2008, Ridgely, J. (Sept. 2, 2008). The injunction also encompasses the Superior Court criminal investigation and the convictions referred to in the appeal, which stem from those Family Court matters.